

City of Morgantown
389 Spruce Street, Morgantown, WV 26505

REGULAR MEETING
February 4, 2020

The Regular Meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, February 4, 2020, at 7:07 p.m.

PRESENT: City Manager Paul Brake, Assistant City Manager Emily Muzzarelli, City Attorney Ryan Simonton, City Clerk Christine Wade, Mayor William A. Kawecki, Deputy Mayor Rachel Fetty, and Council Members Zackery Cruze, Jenny Selin, Ron Dulaney, Dave Harshbarger, and Barry Wendell.

The meeting was called to order by Mayor Kawecki.

APPROVAL OF MINUTES: January 21, 2020, Special Meeting minutes, and January 28, 2020, Committee of the Whole Meeting minutes were approved as printed.

CORRESPONDENCE: None

PUBLIC HEARING: AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-1, NEIGHBORHOOD BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN

Mayor Kawecki declared the Public Hearing open.

There being no appearances, Mayor Kawecki declared the Public Hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE PROVIDING ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE SEVENTH WARD: The below entitled Ordinance was presented for second reading.

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF A PARCEL OF REAL ESTATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-1, NEIGHBORHOOD BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN

City Manager Paul Brake explained, council suspended the rules to have Chris Fletcher, Director of Development Services, present to council the request for reclassification from the parcel owner and possibilities for new business in the parcel. Motion by Dulaney, second by Harshbarger, after discussion, to approve the above entitled Ordinance. Motion carried 7-0.

BOARDS & COMMISSIONS: None

PUBLIC PORTION:

Mayor Kawecki declared the Public Portion open.

Theodore Webb expressed support of an ordinance revising Morgantown Code penalties for cannabis possession, and asked council to consider passing the ordinance.

There being no other speakers, Mayor Kawecki declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: Councilor Dulaney mentioned those that are putting together the Center (formally known as the Ramada Inn) on Scott Avenue, are starting an AD HOC Steering Committee for the project. Soon, the committee will be coming to the City Administration requesting participation by the Mayor, City Manager, and a representative of Council. He stated that was all the information he had for now and will update everyone as he gets new information.

CONSENT AGENDA: None

NEW BUSINESS:

AN ORDINANCE REVISING MORGANTOWN CODE PENALTIES FOR CANNABIS POSSESSION: The below entitled Ordinance was presented for first reading.

AN ORDINANCE REVISING MORGANTOWN CODE PENALTIES FOR CANNABIS POSSESSION

City Manager Paul Brake explained, after discussion, motion by Selin, second by Dulaney, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE APPROVING A LEASE FOR AIR QUALITY SAMPLING SHELTER: The below entitled Ordinance was presented for first reading.

AN ORDINANCE APPROVING A LEASE FOR AIR QUALITY SAMPLING SHELTER

City of Morgantown

City Manager Paul Brake explained, motion by Dulaney, second by Cruze, after discussion, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

ORDINANCE PROVIDING FOR AUDIT REPORTING BY THE LAND REUSE AND PRESERVATION

AGENCY: The below entitled Ordinance was presented for first reading.

ORDINANCE PROVIDING FOR AUDIT REPORTING BY THE LAND REUSE AND PRESERVATION AGENCY

City Manager Paul Brake explained, motion by Dulaney, second by Harshbarger, to approve the above entitled Ordinance. Motion carried 7-0.

ORDINANCE AMENDING THE BOUNDARIES OF CERTAIN ZONING OVERLAY DISTRICTS: The below entitled Ordinance was presented for first reading.

ORDINANCE AMENDING THE BOUNDARIES OF CERTAIN ZONING OVERLAY DISTRICTS

City Manager Paul Brake explained, motion by Dulaney, second by Selin, to approve the above entitled Ordinance. Motion carried 7-0.

A RESOLUTION REVISING THE RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE

COMMISSION PROVIDING RESIDENCY REQUIREMENTS: The above entitled Resolution was presented for first reading.

City Manager Paul Brake explained, motion by Harshbarger, second by Dulaney, after discussion, to approve the above entitled Ordinance. Motion carried 7-0.

CITY MANAGER'S REPORT:

Information:

1. Update about Milan Puskar Health Right Safe Disposal Box Services

Staff has been actively working with the Executive Director of Health Right on the placement of the three safe syringe disposal boxes in key areas determined in coordination with the Police Department and the Public Works Department. More information about the status of the placement, as well as how the containers will be installed, monitored, and maintained, will be presented to Tuesday's meeting.

City Manager Paul Brake update council on the status of the placement of sharps containers in the city, and stated necessary approval still needed to move forward.

2. Tax Increment Finance District – Airport Runway Extension and Development Authority Commerce Park

Included in the packet is a document following up on the preliminary discussion to create a new Tax Increment Finance (TIF) District in Monongalia County to fund the airport runway extension and the needed improvements to the Development Authority Commerce Park. As I indicated to you through an email earlier this week, Jon Vrabel and I met with the Mon County Commission during a work session held on January 29th.

The presentation provided an opportunity to introduce the idea of establishing the TIF District to fund the improvements at both the airport and the commerce park. The minimum needed local match, as required by the FAA, is \$5 million. There are some additional costs associated with clearing the Development Authority property that are not reimbursable. Those cost should be addressed through a grant or some other source to be determined. The improvements needed to prepare the commerce park site will likely add another \$5 million (although design is not yet complete so this numbers is estimated) resulting in a total projected \$10 million revenue sought from the TIF district for the projects.

Assuming the County Commission is agreeable to creating a new TIF District, the proves will take approximately 190 days to complete (February to August 2020). Once this is completed, it be necessary to submit the application to the West Virginia Development Office (WVDO) and the approval process is expected within 60 days. As a last step, a subsequent ordinance approving the project plan is up to 100 more days from submission, so the total timeline is approximately 290 days (again, depending on approval).

The County can establish a TIF District that encompasses both property within and outside of Morgantown's boundaries, with the City's agreement. The County and City can enter into governmental agreements to act together as the developer for the district. I would anticipate the County Commission would create some sort of oversight board or committee (pertaining to the construction process only) who would carry out processing invoices during the entire process.

Attached is a detailed description of the construction costs and yearly local match to complete the project. Also, the creation of the TIF centers around a business or property developer committing to submitting a letter of intent (with the inter to purchase) on the pad site at the Development Authority Commerce Park. The detail report below shows the allowable uses, per the City's Zoning Code, for potential commercial/industrial operations.

Presenting all facets of this large complex project will give you a better understanding of the enormous undertaking to make the airport runway extension a reality.

City Manager Paul Brake explained the proposed Tax Increment Finance district for funding the Airport Runway Extension and the development of the Commerce park. Council suspended the rules to have Russell Rogerson Director of Mon County Development Authority and Rocky Gianola MCDA Attorney, explain and answer any questions.

3. Kayak/Bike Rental Facility at Walnut Street Landing/HRM Riverfront Park

Assistant City Manager Emily Muzzarelli is actively working with our construction manager, March Westin, about the prospective costs of the proposed kayak rental facility at the Walnut Street Landing. Included in the memo is a financial abstract showing that capital costs can be recouped within 7.5 years. Please see the memorandum for more details. Additional information will be forthcoming at Tuesday's meeting.

City of Morgantown

Assistant City Manager Emily Muzzarelli updated council on the perspective costs of the Kayak/Bike Rental Facility at Walnut Street Landing/HRM Riverfront Park.

4. Power Plant Complaints

City Manager Paul Brake mentioned that the office has been receiving some phone call complaints regarding the power plant and the noise. He stated he called the Managing Director of Star Wood Energy in express to the noise. The Managing Director is working on trying to reduce the noise of the plant on warm days, which is the loudest.

5. Housing & Affordability Marketing Analysis Study

City Manager Paul Brake gave an update on the survey.

6. Killarney Drive

City Manager Paul Brake and Assistant City Manager Emily Muzzarelli announced that the area of Killarney Drive at the bridge will be closed due to work that is being done.

7. Census

City Manager Paul Brake announced that there is less than a two-months left until Census Day, April 1, 2020. He encouraged everyone to get involved and fill out the Census Form.

New Business:

1. Letter in Opposition of SB 209 (Annexation)

The minor boundary adjustment annexation legislation passed the West Virginia Senate on Thursday evening (January 29th) and was transmitted to the House of Delegates. It has been referred to the House Political Subdivisions and Government Organizations Committees. Included in this packet is a draft letter for your consideration to be sent to the Committee Chair and our local representatives, or other representatives who may be appropriate.

Also, you will find a good perspective on the potential effect of the legislation from the Charleston Gazette legislative columnist.

City Manager Paul Brake presented to council with a draft letter to send to the Committee Chair regarding opposition to SB 209 (Annexation). (Approved by proclamation). After some minor amendments to the letter, by consensus, approval for Mayor Kaweck to email to the Legislature.

2. Authorize Equipment Purchase – Public Works Department

Staff is recommending the City Council to forgo the competitive bidding process, per City Ordinance 129.05€, and purchase a melter/asphalt crack sealer equipment through Soucewell's Cooperative Purchasing Contract (formerly National Joint Powers Alliance). This group represents thousands of competitively solicited equipment through Sourcewell over the past few years.

The attached memorandum includes the details and specifications of the Super Shot 125 Melter/Applicator Pavement Preservation System in the amount of \$74,674.24. The amount is already included in the Capital Escrow Fund. It is recommended that City Council approve the purchase as proposed by staff.

City Manager Paul Brake explained a proposed purchase of equipment for the Public Works Department. Motion by Selin, second by Dulaney, to approve the Super Shot Melter/Applicator Pavement Preservation System in the amount of \$74,674.24. Motion carried 7-0.

REPORT FROM CITY CLERK: City Clerk Christine Wade thanked council for passing the Ordinance expanding residency requirements for officers of the Morgantown Police Department. She stated that the Morgantown Police Department has scheduled testing for entry-level police officers for April 18, 2020. She stated that in collaboration with the City's Communication Director, Andrew Stacy, the City Clerk's office is now able to track job interest forms for the Fire Department, Police Department, and Boards and Commissions. She stated that the Fire Civil Service Commission would be meeting on February 5, 2020, to discuss presenting council with a request to extend residency requirements for firefighters from a 15 air-mile radius to a one-hour drive time. She also mentioned to council that the option is open to become a member of the National League of Cities. She reminded those of the deadline for the Financial Disclosure Forms that are due to the Secretary of State's Office. She reached out to Council to see how the Notify Me was going, and if they needed any help to reach out to her.

REPORT FROM CITY ATTORNEY: City Attorney Ryan Simonton, stated that he attended the Municipal Attorney's Association Meeting on January 27, 2020. He also stated that the city is in the proves of implementing the City Home Rule Plan Amendment #5.

REPORT FROM COUNCIL MEMBERS:

DEPUTY MAYOR FETTY: She is glad January is over and is looking forward to continuing things that are important to the City relating to the hot topics. She hoped that the sharp containers will move very quickly in seeking of the permit. She thanked all City Administration who has worked to get the situation resolved. She is concerned about the possibility Mon County Health Department will be called upon to do something that is believed to be against the public's interest if SB 286 is passed. If anyone has any questions, contact your local legislatures. She wished everyone a Happy Valentine's Day. Announcements: February 25, 2020, First Ward Neighborhood Association Meeting, Mardi Gras, and Shrove Tuesday.

COUNCILOR CRUZE: He announced that the Legislative Session is halfway through and stated that it is a terrifying time due to several Senate and House Bills that the legislature is working on. Just a few, SB 286 prohibiting the development of syringe exchange programs and HB 2899 – Ban Municipalities from enacting nondiscrimination policies regarding anything that is in the State's nondiscrimination. He stated that if HB 2899 passes, Morgantown would not be able to have a nondiscrimination Ordinance that includes sexual orientation or gender identity. He stated that there are many bills that would affect the City of Morgantown if they are passed.

SELIN: She mentioned to council, if anyone from other entities have information on what is going on during the legislative session to pass on to others to spread the word. She mentioned the Suncrest Neighborhood Association is working on different ways kids can get to school without taking the main routes. She is very appreciative of all the efforts with helping the transportation system and how they can get to where they need to go. Krepps Park, BOPARC is installing a new playset, and stated that the Neighborhood

City of Morgantown

Association along with a group of parents are working on fundraising to purchase two additional items, merry-go-round and a slide that will go with the playset they are installing. They are half-way there for the merry-go-round and announced that there is a GoFundMe page that you can find by going on the Suncrest Neighborhood Association website. If any questions regarding the GoFundMe page you may contact Susan Case. The GoFundMe will end on Friday and on Monday the money that was raised will go toward the purchase of those extra items. She announced that Empty Bowls will be at Milan Park Saturday, February 29, 2020.

COUNCILOR DULANEY: He stated that the Woodburn Neighborhood Association met and voted to support the placement of a sharp's container in the neighborhood, Whitmore Park, where a letter was sent to City Administration in support of the sharp's container. He mentioned that there was a lot of interest with the announcement of the acquisition and potential redevelopment of many parcels off the Richwood loop and hopes that there will be a meeting for the public to come and ask questions. He also mentioned the Downtown Initiatives Group had a follow-up meeting last Friday and stated that there is progress being made on the five initiatives that have been identified. He mentioned that Bob Hansen, Director of Addiction Services at Marshall University, come to Morgantown to meet and engage in working through things in the community on addiction, homelessness, and mental disorders. He thanked the Mayor for helping to create the connection along with Gigi Villarreal, for contacting Bob Hansen to schedule a day for him to come and talk about the issues in Morgantown.

COUNCILOR HARSHBARGER: He mentioned that on January 25, 2020, there was a count on the homeless in Morgantown, even though it was a cold one, he stated that they got a count and hoped that the facilities such as the Bartlett House counted the ones that are staying there. He attended the Greenmont Neighborhood Association Meeting on January 27, 2020, where the drug house ordinance was discussed. There was a discussion on the Rail Trail Connector Bridge that goes into Greenmont at Kingwood Street that has brought a lot of increased activity. He talked about many things that are happening on the Rail Trail in the coming months.

COUNCILOR WENDELL: See below

I'm glad we passed the ordinance about cannabis. As many of us said, we are not legalizing cannabis, nor do we control other police forces that cover Morgantown, and even the local police do not have to refer cases to Municipal Court. Perhaps we should mandate that these cases go to Municipal Court, even if it is over the Chief's objections. I read today about Delegate Evan Hansen proposing statewide legalization. It would be great if that could pass.

I am also glad we expanded the area where Morgantown Police can recruit to a one-hour drive. Tonight, the City Manager made it clear that this was not mainly for recruitment purposes. We still need to recruit new officers. At the Suncrest meeting last week, former Councilor Don Spencer pointed out that we used to offer people deals on mortgages and other incentives to move here. Could we possibly do that again? I'm concerned that our local force is not known for its diversity by gender, religion, race, or LGBT status, and the area where we will be recruiting is not racially or ethnically as diverse as Morgantown, and not known to be friendly to minorities. I think our Police have been good at dealing with all segments of the community, and I hope we can continue that, even as we try to diversify the force.

Mayor Kawecki, Counselor Selin and I attended the West Virginia Municipal League Winter Meeting in Charleston last week. We spoke to our legislators about annexation and heard their concerns. People were generally friendly, but my concerns about diversity and inclusion were heightened by feeling that I was unique in this group, and that serving pork at several meals and box lunches from a particular restaurant with a history of being anti-LGBT did not feel friendly to me. SB 96 would further erode our city's ability to regulate guns, which is already restricted. It passed through a Senate committee today. Senator Beach promised us he would vote against it, but he voted for it.

I'm concerned about our Legislature. The majority party seems to be focused on stopping abortion, allowing any guns anywhere despite local attempts to regulate them, and using religion as a weapon against LGBT people. Meanwhile, I've read that 57,000 people have left the state in the last five years. Suggesting that people in Virginia who are disgruntled with their state government would ask their counties to join West Virginia is a waste of time.

In the discussion of the proposed airport industrial park, I hope this all benefits the city, but based on some of the people on the authority, and the opposition to annexing areas near the airport, I have some doubts about the process. As far as keeping people here, which was mentioned, we would need to have good-paying jobs, and an area that is open to all kinds of people, with good amenities. That's what we all on this Council want. I'm not sure the rest of the state, or even people in our County, out of Morgantown, share our goals. One problem with this proposal, and possibly why so many of asked questions, is a lack of trust between members of this Council and members of the County Commission, as well as people on the Development Authority who have spoken against

annexation and even went to the legislature to argue for the bill to end minor boundary adjustment. I would feel better if County Commissioners didn't bad-mouth us on social media.

My class at OLLI about Laura Nyro continues the next two Thursdays at 12:45. OLLI classes are designed for people over fifty, but everyone is welcome. One can get a permit to attend a class for free. Also, at OLLI tomorrow at 10 A.M. is a class called "Faith and the New Sexuality" with Pastor Wes Bergen, Pastor Zac Morton and Rabbi Joe Hample. I highly recommend membership at OLLI at WVU.

MAYOR KAWECKI: He read a New Year's card received from our Sister City, Xuzhou, China, thanking us for being a Sister City with them. Announcements: Morgantown Newcomers Club 10:00 am at the MAC tomorrow evening; Cabin Fever Friday downtown; For Women that are exhibiting, February 7, 2020, at the MAC, and a student exhibition art work; Clay Earring popup and sale, at the Hoot and Howl, February 7, 2020, at 4:00 p.m.; Downtown Black Bear has many bands that plays in the evenings; Lady and the Tramp, February 15, 2020, at the Met Theatre, cost is \$5.00 and you get popcorn and a drink.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9(A)4 (2)(B) (12) Pursuant to West Virginia Code Section 6-9A-4 (2) (B) (12) to discuss potential or pending litigation related to Nicewarner et al. v. City of Morgantown. Motion by Harshbarger, second by Dulaney, to go into executive session. Motion carried by acclamation. Present: City Manager, City Attorney, and City Council. Time: 10:01 p.m.

ADJOURNMENT: There being no further business, motion by Dulaney, second by Harshbarger, to adjourn the meeting.

Time: 10:41 p.m.

City Clerk

Mayor